

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GREENPOINT TECHNOLOGIES, INC.,

Plaintiff,

v.

HARTFORD CASUALTY INSURANCE
COMPANY,

Defendant.

Case No. C09-1323 MJP

**ORDER GRANTING PLAINTIFF'S
MOTION FOR PROTECTIVE
ORDER AND ORDER TO QUASH
SUBPOENAS**

This matter comes before the Court on Plaintiff's motion for a protective order and order to quash subpoenas served on trial counsel. (Dkt. No. 31.) Having reviewed the motion, Defendant's opposition (Dkt. No. 45), Plaintiff's reply (Dkt. No. 48), and all papers submitted in support thereof, the Court GRANTS Plaintiff's motion.

Defendant has served Plaintiff's counsel with subpoenas for their deposition. Defendant seeks testimony on issues relating to counsel's actions prior to the filing of the instant lawsuit. This highly unusual request is unnecessary. The deposition of opposing counsel "has long been discouraged," and is justified in very narrow circumstances. Shelton v. Am. Motors Corp., 805 F.2d 1323, 1327 (8th Cir. 1986). "The three-part test set out in Shelton places the burden on the party seeking the deposition to show that (1) no other means exist to obtain the information than

1 to depose opposing counsel, (2) the information sought is relevant and nonprivileged, and (3) the
2 information is crucial to the preparation of the case.” DiLorenzo v. Costco Wholesale Corp., 243
3 F.R.D. 413, 415 (W.D. Wash. 2007). Defendant has not demonstrated that there are no other
4 means of obtaining the evidence it seeks. Plaintiff points to several alternative sources for the
5 information. Defendant has failed to meet its burden to satisfy its extraordinary request. The
6 Court GRANTS Plaintiff’s motion. The Court bars Defendant from deposing Plaintiff’s counsel
7 and quashes the subpoenas.

8 The Clerk shall transmit a copy of this Order to all counsel of record.

9 Dated this 29th day of June, 2010.

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12 Marsha J. Pechman
13 United States District Judge
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